

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING #97-25**

**WARNING**

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

**SUBJECT**

Applicability of business tax to management and health services.

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[THE TAXPAYER], provides operating staff to [CORPORATION A], a Tennessee nonprofit corporation which provides hospital, medical, and other health services to subscribers in accordance with prearranged agreements and service plans. The Taxpayer's primary business activity consists of supplying [CORPORATION A]'s entire management services and operating staff. The operating staff supplied by the Taxpayer performs all services necessary to the operation of [CORPORATION A]'s business.

## **ISSUES**

Whether the Taxpayer is required to pay business tax for supplying management services and operating staff to [CORPORATION A].

## **RULINGS**

The Taxpayer is not required to pay business tax.

## **ANALYSIS**

Tenn. Code Ann. § 67-4-708 requires all service providers to pay business tax unless the services provided fall within an express exception. Tenn. Code Ann. § 67-4-708(3)(C) provides that “[i]t is the legislative intent that the [following] exceptions . . . shall include the sales of services by those businesses or establishments so described in the Standard Industrial Classification Index of 1972, including all supplements and amendments. . .” The Tennessee Attorney General opined that businesses exempted from paying business tax must fall directly within one of the expressly excepted categories as illustrated in the Standard Classification Index. Op. Atty. Gen. 94-98 (9/7/94).

Each person or business entity is classified according to the dominant business activity. Tenn. Code Ann. § 67-4-708. The Taxpayer's dominant activity is providing management and administrative services for [CORPORATION A]. The Standard Industrial Classification Index, 1987 Ed., (“Index”) defines management services as “furnishing general or specialized management services on a day to day basis and on a contract or fee basis . . . [and which] do not provide operating staff. Management and operation of a business, where operating staff, as well as management, is provided, is classified according to the activity of the establishment managed.” Index, 403.

The Taxpayer provides [CORPORATION A]'s entire operating staff. Accordingly, the Taxpayer's classification is derived from [CORPORATION A]'s classification and any exception applying to [CORPORATION A] will apply to the Taxpayer. [CORPORATION A] is a nonprofit corporation which supplies services to patients through providers pursuant to established plans. Insurance carriers are in Major Group 63 in the Index, and include “[e]stablishments primarily engaged in

providing hospital, medical, and other health services to subscribers or members in accordance with prearranged agreements or service plans.” Index, 343. [CORPORATION A], then, is an insurance carrier and accordingly, the Taxpayer is also deemed an insurance carrier.

Among the listed exceptions from the business tax is an exemption for insurance carriers or agents. Tenn. Code Ann. § 67-4-708(3)(C)(xi). Accordingly, the Taxpayer is exempt from paying business tax.

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APPROVED: \_\_\_\_\_  
Ruth E. Johnson  
Commissioner

DATE: 6-20-97